

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

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| JENNIFER S. McCULLOUGH, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | No. CIV-11-235-C |
| |) | |
| MICHAEL J. ASTRUE, |) | |
| Commissioner of Social Security |) | |
| Administration, |) | |
| |) | |
| Defendant. |) | |

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for judicial review of the Commissioner's denial of disability insurance benefits was referred for initial proceedings to United States Magistrate Judge Robert E. Bacharach consistent with 28 U.S.C. § 636(b)(1)(B). Judge Bacharach entered his Report and Recommendation on October 26, 2011, recommending that the decision of the Commissioner be affirmed. Plaintiff, through counsel, has timely filed an objection to this report, and the Court therefore considers the matter de novo.

Plaintiff's only objection to the Report and Recommendation is that the Administrative Law Judge ("ALJ") failed to review, discuss, or mention roughly half of the medical exhibits on file. As Judge Bacharach noted on pages three and four of the Report and Recommendation, the ALJ is under no obligation to specifically discuss every exhibit in the record. Here, the testimony at the hearing reflects that the knee replacement surgery

had no debilitating effects at the time of the hearing, and was completed before the onset date, and thus any exhibits reflecting problems in that replaced knee prior to and shortly after the surgery would be totally irrelevant. (Tr. 30-31, 35-36.) Certainly the evidence showed that Plaintiff had continuing arthritis problems, but both treating physicians agreed her residual functional capacity would permit sedentary employment. Likewise, although Plaintiff has complained for many years of heart problems and pain, the medical evidence at the time of the hearing was that there was no evidence of coronary artery disease. Thus, the evidence Plaintiff complains should have been discussed was not significantly probative and the ALJ's failure to specifically mention it is not cause for reversal.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons stated therein, the decision of the Commissioner in this case is affirmed. A judgment will enter accordingly.

IT IS SO ORDERED this 30th day of November, 2011.


ROBIN J. CAUTHRON
United States District Judge